

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FREDERICK T. RAY, III,)	
)	
Plaintiff,)	
)	Civil Action No. 12-985
vs.)	
)	Judge David Stewart Cercone/
JEFF ROGERS, Corrections Program)	Magistrate Judge Maureen P. Kelly
Manager; DAVID MITCHELL, Captain;)	
COI HARKLEROAD, Corrections Officer;)	
COI STEPHENS, Corrections Officer;)	Re: ECF Nos. 85, 86, 87, 88
MICHAEL SMITH, Activities Mgr/PRC;)	
DAVID GRAINEY, MAJOR OF GUARD;)	
MARK CAPOZZA, Deputy OF)	
Services/PRC; F. NUNEZ, Hearing)	
Examiner; GREG JOHNSON,)	
Principal, Director of Educational Services -)	
Member of PRC Misconduct Appeal Review))	
CARLA SWARTZ, Unit Manager PFC; R.)	
DIETZ, Psychology Manager; LOUIS)	
FOLINO, Superintendent; CAPTAIN)	
DURCO, Shift Commander; CO1)	
McDONOUGH; CAPT. HAYWOOD,)	
SECURITY OFFICE CAPTAIN; LT.)	
SHRADER, Lieutenant OF RHU; LT.)	
MIEGHAN, Lieutenant; DORINA)	
VARNER, Chief Grievance Officer;)	
ROBERT MACINTYRE, Chief Hearing)	
Examiner; LT. ARMSTRONG, Lieutenant)	
Security Office; DAN DAVIS, Grievance)	
Coordinator; CAPT WALKER, RHU)	
Captain; LT. BARKEFELT, Lieutenant;)	
CO1 MILLER, Hearing Officer,)	
Defendants.)	

ORDER

On May 16, 2014, this Court issued an Order granting Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status, ECF No. 73, finding that Plaintiff's request to proceed in forma pauperis had been improvidently granted when Plaintiff initiated this case. ECF No. 83. In addition, Plaintiff was ordered "to pay the remainder of the filing fee of \$97.20 in full by June

17, 2014 or the case will be dismissed without further warning at that time for failure to prosecute.” In response, Plaintiff has filed a series of related motions. Upon consideration of those motions, the following Order is entered:

AND NOW, this 11th day of June 2014,

IT IS HEREBY ORDERED that Plaintiff’s Motion to Vacate I.F.P. Order Authorizing Deductions From Plaintiff’s Prison Account, ECF No. 85, is GRANTED, and the Superintendent/Warden is directed to discontinue deducting partial payments from Plaintiff’s account;

IT IS FURTHER ORDERED that Plaintiff’s Motion for Refund of Erroneously Collected Payments Under PLRA, ECF No. 86, is DENIED as Plaintiff was, and is, nevertheless obligated to pay the filing fee and there is no provision for return of funds, see Goins v. Decaro, 241 F.3d 260, 261-62 (2d Cir. 2001) (“[t]he [Prison Litigation Reform Act of 1995] makes no provision for return of fees partially paid or for cancellation of the remaining indebtedness”);

IT IS FURTHER ORDERED that Plaintiff’s Motion for Extension of Time to Appeal to District Judge until such time as he is provided with case law cited by the undersigned in the Order revoking Plaintiff’s *in forma pauperis* status, ECF No. 87, and Plaintiff’s Motion to be Provided Copies of Unpublished Opinions Cited in Court’s Order, ECF No. 88, are DENIED as Plaintiff is not entitled to pursue this action until the filing fee is paid in full and the cases cited in this Court’s May 16, 2014 Order are accessible to Plaintiff notwithstanding the apparent unavailability of Westlaw. Plaintiff is advised that he remains obligated to pay the remaining \$97.20 of the requisite filing fee by June 17, 2014, or the case will be dismissed for failure to prosecute.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/ Maureen P. Kelly
MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: FREDERICK T. RAY, III
GF 2852
SCI Smithfield
1120 Pike Street
Huntingdon, PA 16652

All Counsel of Record Via CM-ECF